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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,718	04/06/2000	Eduardo Cue	P2513/561	9145
21839	7590	01/27/2004	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			POND, ROBERT M	
		ART UNIT	PAPER NUMBER	
		3625		

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/544,718	CUE ET AL.
Examiner	Art Unit	
Robert M. Pond	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 29 October 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-47 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-47 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 29 November 2000 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ . 6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

### ***Response to Amendment***

The Applicant filed a Request for Continued Examination under 37 CFR 1.114, and amended Claims 1, 16, 26, and 36. All pending claims (1-47) were examined in this non-final Office Action.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 16, 26 and 36 have been considered but are moot in view of the new ground(s) of rejection.

The Applicant amended independent Claims 1, 16, 26, and 36 which further add the limitation that the virtual bundles produced by the administrator are purchasable on a web page not associated with the vendor. As a consequence of the amended claims, the Applicant states the virtual bundles are created such that they can be purchased from a web page of the group rather than the vendor in order to provide more independence for the purchaser as well as the selection of the bundles. The Applicant concludes that by creating virtual bundles that are purchasable from the group's web page rather than the vendor's, the group retains more control over purchases and the selection of bundles, while the resources of the vendor are more efficiently used. The Applicant submits that none of the references teach or suggest that the virtual bundles are created by

an administrator, not associated with a vendor, and are suitable for purchase from a web page of the group.

Examiner's Response Specific to Dell Computer

The Applicant's arguments are based on optimizing value. Dell Computer teaches the claimed invention except for: *the virtual bundle suitable for purchase by a member of a group other than the vendor from a web page of the group.* Dell Computer teaches virtual bundles comprising products suitable for purchase by a member of a group from a web page implemented by the vendor (Dell Computer). The virtual bundles created by a group administrator comprise products provided by the vendor. The products provided by the vendor comprise vendor's products (please see Henson Fig. 3a (79): e.g. Dell Dimension personal computer), and third-party products (see Henson Fig. 3a (70): e.g. McAfee VirusScan, Iomega ZIP drives) that meet the business needs of the vendor and its customers who choose to do business with the vendor. One of ordinary skill in the art would expect products that directly compete against the vendor's products (e.g. Apple, IBM or HP computers) generally would not meet the business needs of the vendor and therefore be excluded from the list of available products. From a customer's perspective, the vendor's web site may be too restrictive and not provide optimum value to the marketplace due to the fact that the only source for a product type is the vendor (e.g. computers). The customer may prefer or require other types of computers (e.g. Apple Computer, IBM) that are not offered

by vendor. Therefore it would have been obvious to one having ordinary skill in the art at time the invention was made to move the system and method of Dell Computer to a web site independent of Dell Computer (not of the vendor) to optimize the available sources for products, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. Please see *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "22 and 30" and "22' and 30'" have both been used to designate "web server and customer computer" respectively. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
  
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: at least 34 (Fig. 1A) and 88 (Fig. 6A). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid

abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

3. The disclosure is objected to because of the following informalities:

Submission of formal drawings created Figures 3-1 and 3-2. Page 3, line 17 of the Specification and any other references to Figure 3 must be changed to account for the changes in the formal drawings. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-47 are rejected under 35 USC 103(a) as being unpatentable over Dell Computer (a collection of prior art cited in Paper #4, PTO-892 Items: U-X; and Henson, patent number 6,167,383).**

Dell Computer teaches a system, method, and machine readable medium for conducting commerce with customers desiring to purchase computers,

peripherals, software, and accessories through Dell Computer's web site (please see Item U; pages 2-3). Dell Computer teaches:

- Online specialty stores for customers belonging to a group (e.g. federal government, state & local governments, higher education, healthcare, and businesses) (see at least Item: U, pages 6-19; Henson: abstract; col. 3, lines 35-44),
- A database driven shopping cart and configurator that assists the customer in customizing a computer system for purchase, providing automatic price totaling (see at least Henson: Fig. 1 (18, 20, 24); col. 4, line 35 through col. 5, line 65),
- Customized secure websites for individual customer groups, hereafter referred to as Premier Pages, managed by Dell Computer's web service that allows large companies and public-sector customers to simplify procurement of Dell products and support processes (see at least Item: U, pages 3-5; Item: W, page 1; Henson: abstract; col. 14, lines 18-61);
- Premier Pages providing paperless purchase order processing, purchase history reporting, order status, and help desk support (see at least Item: X, page 1),
- Premier Pages providing customers with access to over 53,000 pages of technical information including self-diagnostic tools and frequently asked questions (see at least Item: V, page 1)

- Premier Pages with flexible page content and layout, clear navigation, customizable links to other Internet sites (see Item: V, page 1),
- Premier Pages with quote details, automatic pre-filling of address fields, and multi-currency features (see at least Item: V, page 1),
- Premier Pages that incorporates ImageWatch which is designed to provided early notification of technology changes to Dell corporate and institutional customers (see at least Item: W, page 1),
- A higher education online mall with links to an institution's special contract pricing based on volume purchase agreements (VPA) (see at least Item: U, pages 18-19; Henson: col. 13, lines 29-37),
- Customizing systems using the Dell Online Store shopping cart and check-out process, featuring automatic price update calculations and payment methods (see at least Item: U, pages 20-23),
- Option selection impact alert icon that indicates to the buyer that the selected option restricts or limits the selection of other configuration choices for the system and that there is a possible impact to choice of configuration (see at least Item: U, page 25),
- Extended Delivery Time Warning icon that indicates to the buyer that the selected option will extend the system's delivery time beyond Dell's standard delivery time frame; clicking the icon provides the earliest delivery date for systems with this component (see at least Item: U, page 25),

- Payment options for institutional customers (e.g. purchase order, business lease, line of credit, credit card) (see at least Item: U, page 27),
- Shipping options (e.g. next, second, or third business day delivery, lowest cost delivery) (see at least Item: U, page 28),
- Order Watch service that provides e-mail notification when order is shipped (see at least Item: U, page 28),
- Delivery Time indication from time order is placed (see at least Item: U, pages 28-29),
- Online Store contact page for corporate and institutional customers (see at least Item: U, page 30),
- Remote user computers connected via the Internet to the online store (Henson: see at least Fig. 2 (10, 38, 40); col. 5, line 66 through col. 6, line 4), and
- System computer with machine readable medium (Henson: see at least Fig. 11 (50); col. 6, lines 5-17).

Dell Computer teaches all the above as noted under the 103(a) rejection and teaches a) virtual bundles comprising products suitable for purchase by a member of a group from a web page implemented by the vendor (Dell Computer), b) virtual bundles created by a group administrator comprising products provided by the vendor, c) products provided by the vendor comprising vendor's products (please see Henson Fig. 3a (79): e.g. Dell Dimension personal

computer) and third-party products (see Henson Fig. 3a (70): e.g. McAfee VirusScan, Iomega ZIP drives) that meet the business needs of the vendor and its customers who choose to do business with the vendor. Dell Computer, however, does not teach the virtual bundle suitable for purchase by a member of a group other than the vendor from a web page of the group. One of ordinary skill in the art would expect products that directly compete against the vendor's products (e.g. Apple, IBM or HP computers) generally would not meet the business needs of the vendor and therefore be excluded from the list of available products. From a customer's perspective, the vendor's web site may be too restrictive and not provide optimum value to the marketplace due to the fact that the only source for a product type is the vendor (e.g. computers). The customer may prefer or require other types of computers (e.g. Apple Computer, IBM) that are not offered by vendor. Therefore it would have been obvious to one having ordinary skill in the art at time the invention was made to move the system and method of Dell Computer to a web site independent of the vendor to optimize the available sources for products for customers who need other types of products not offered by the vendor, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. Please see *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mr. Robert M. Pond** whose telephone number is 703-605-4253. The examiner can normally be reached Monday-Friday, 8:30AM-5:30PM Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Mr. Vincent Millin** can be reached on 703-308-1065.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **703-308-1113**.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks***

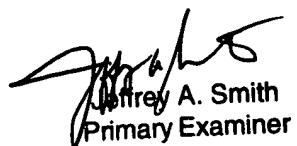
***Washington D.C. 20231***

or faxed to:

**703-872-9306** (Official communications; including After Final communications labeled "Box AF")

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

RMP  
January 14, 2004



Jeffrey A. Smith  
Primary Examiner